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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1961

No. 475

ROBERT ELMER GALLEGOS,

Petitioner,

—v.—

THE PEOPLE OF THE STATE OF COLORADO,

Respondents.

BRIEF OF PETITIONER

CHARLES S. VIGIL,
711 E. & C. Building
930 Seventeenth Street
Denver 2, Colorado

Counsel for Petitioner

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To the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

I. Opinion Below

The Supreme Court of the State of Colorado denied petitioner's appeal and also denied the application for a rehearing without written opinion. The opinion of the Supreme Court appears at page 314 of the Record and the denial of the petition for rehearing appears at page 328 of the Record.

II. Jurisdiction

1. The judgment of the Supreme Court of Colorado denying the appeal was entered on December 19, 1960.

2. Timely petition for a rehearing was filed which was denied on January 9, 1961, and execution was stayed for 90 days.

3. The Supreme Court of Colorado is the highest court in Colorado and jurisdiction of this court is invoked by reason of 28 U.S.C. Sec. 1257 (3).

III. Questions Presented for Review

1. Where in a criminal proceeding a Spanish-speaking child of the age of 14 is held in solitary confinement for a period of five days and is denied the right to counsel and is denied the right to visitation by his parents and is questioned repeatedly, and where the child is of the mental age of eight years, may the state court properly claim that this 14-year-old child's statement, which is the only basis for a conviction in the state's court, is a voluntary statement?

2. Can a state court deny an indigent defendant the same rights and privileges in securing psychiatrists to examine and testify in his behalf as a person of means might have in the same situation?

3. May the state court construe a statute that provides as follows: "a disposition of any child under this article or any evidence given in such case, shall not in any criminal or other cause or proceeding whatever be lawful or proper evidence against such child for any purpose . . ." to mean that the evidence can be used against such child and to state that the only evidence restricted in use is that that was introduced in the hearing in the Juvenile Court and using as an analogy the rule in the federal courts that provides that the testimony given before a grand jury can be again used in a trial of the defendant involved?

4. Can the trial court and the Supreme Court of the State of Colorado deny a person the right to waive a jury trial when there is no death penalty involved?

IV. Constitutional Provisions Involved

Article XIV, Constitution of the United States: "... No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

V. Statement of Facts

A. Synopsis of Facts

Eddie Martinez, 12, and Robert Gallegos, 14, were charged with murder occurring during robbery. On former jeopardy hearing evidence of action No. 25781 in the Juvenile Court, Juvenile Judge Gilliam, admitted that the statements, questions and answers had been used in his Court. Original statement secured by officers from eight-year-old Richard. Subsequently other statements were taken by questioning all three boys. Statement which is basis of conviction, and only evidence presented in the Juvenile Court on robbery charge; and in District Court on the murder charge was to the effect that the three boys followed a man named Smith and they noticed he was weaving on the street. The eight-year-old was downstairs as a lookout. Edward Martinez, 12, grabbed the old man as he went to get a drink of water, and Robert Gallegos struck him with a shoe shine brush. They took $13.00 on December 20, 1958. Approximately 30 days later Smith died. Death certificate indicates he died from pneumonia. Both boys were committed to the State Industrial School for indeterminate term by Juvenile Court.

Verdicts submitted on first degree murder and not guilty in District Court. Jury verdict of guilty. Edward Martinez

dismissed by District Court because of his inability to understand oath. Robert Gallegos is under (1) life sentence, Penitentiary, and (2) indeterminate term, Industrial School.

B. Abstractions

Robert Elmer Gallegos, age 14, charged with murder occurring during alleged robbery January 30, 1959 (R. 4). Thereafter hearing defendant's plea of former jeopardy (R. 18), disclosing that defendant had previously been tried in the Juvenile Court on charge of robbery. Sentenced by the Juvenile Judge to State Industrial School. Gallegos had no representation (R. 23). Court denied plea of former jeopardy (R. 19-35, inc.).

Robert Gallegos was held in security in the Juvenile Hall for a period of five days. Miller stated solitary confinement room contained a microphone for the purpose of getting information (R. 143).

Gallegos was questioned on January 2, and formal statement was taken on January 7, in the morning (R. 146).

Witness Miller was asked whether he had explained to Robert what Case No. 290463 meant when Gallegos was questioned and he stated, "In my mind I knew they knew what I was talking about" (R. 148).

Robert Gallegos said when Detective Chism picked him up he thought Detective was going to take away his shoe shine box. He said Detective Chism talked to him first and said that he, Gallegos, had beat up some old man. "I told him I didn't know nothing about it. He told me Richard said we had done it and then he started telling me here how Richard lied and we was old enough to know better" (R. 156).

"While I was in Juvenile Hall I was kept in security. It is a room where you stay alone. I was in this room alone for five days. They only let me talk to the police officers. It was the only time I could come out of security. I never heard anyone tell me I could have a lawyer. No one ever told me I could talk to my parents and I was not permitted to talk to a lawyer or my parents. I was questioned three times while I was in security. When I was taken to the police building there were a lot of policemen there. They brought me from the Industrial School at Golden. I had been there 15 days and I am still under a sentence there (R. 158, 159). I have never seen Mr. Kruhd before he came to Juvenile Hall (R. 161). I signed the statement because Detective Chism stated whether we told the truth or didn't tell the truth, he was going to send us to the Industrial School (R. 163). As soon as statement signed by me I was released from security" (R. 165).

Gallegos emphasized that statements made by Eddie Martinez were untrue (R. 163). Robert regarding the statement of January 7, 1959, "*Yes, sir, I signed it because he said whether we told the truth or didn't tell the truth he was going to send us to the Industrial School*" (R. 163).

> "Q. These answers right here (indicating Exhibit D) that you gave Detective Miller. What was the reason you gave those answers? A. (Robert Gallegos) *I was scared that if we didn't do it they would keep us in security longer*" (R. 164).

Eyewitness, James Clayton Harper, stated he could not positively identify Robert Gallegos as being present at the hotel at all (R. 83).

Police officer K. Wayne Weston (now in Colorado penitentiary), testified as to his making one of the offense reports (R. 30).

Italics ours unless noted.

Police witness, Paul O. Chism: The statements marked as People's Exhibits 1, 2, 3, and 4 were partially based on statements made by Richard Gallegos, age eight (R. 28).

Chism testified Exhibits A, B, and C were combined information from all three boys, one of whom was eight years of age (R. 124). Nothing was said to the boys with regard to fact statements had to be voluntary and that they could talk to their parents or a lawyer. First statement was secured from the eight-year-old boy, Richard Gallegos; his brother, Robert Gallegos, sat there and later verified the statement made by Richard Gallegos. Then all the boys were taken to Juvenile Hall and placed in solitary (R. 124, 125).

Mr. Rossman, Deputy District Attorney, stated that he did not believe that witness, Paul O. Chism, was competent to testify (R. 128) with relation to the People's Exhibits A, B, C, or D. In none of exhibits is there anything relating to a knife although Chism testified as to a knife, but nothing was written into statements concerning a knife (R. 130).

Paul O. Chism: Nothing was said to Robert Gallegos regarding the voluntariness of statements and the offense was not considered serious at the time of taking the statements (R. 131-132).

Chism secured the shoe shine brush which was admitted as People's Exhibit E by going to Robert Gallegos' mother, asking for the shoe shine kit which he took to Juvenile Hall and *Eddie Martinez identified it as being the brush that he, Eddie Martinez, struck Mr. Kruhd with* (R. 133). The boys were picked up New Year's night (R. 134).

Police witness, Charles W. Miller, testified he discussed the matter with Richard Gallegos, age eight. There was a monitor (microphone) in each room. After securing statement D, Miller gave the typed statement to Detective

Chism and Detective Riggs to take to the boys to be signed; although Detective Miller signed statement where the other witnesses signed, Miller stated that he signed only as a witness to statement (R. 140, 141).

Miller did not know how long Robert was held in solitary and the boys had been arrested on January 1st and the statement was secured on January 7th. He had interrogated one of the boys on the evening of January 3rd (R. 143). Miller stated Richard Gallegos went back to the room and Miller listened over microphone and then took the statement from all three boys (R. 144). Detective Chism also questioned the boys (R. 145). When Miller talked to Richard Gallegos, he did not tell him that he did not have to say anything or that he could have a lawyer or call his parents, but merely asked him what Richard wanted to tell him (R. 147, 148).

Miller stated that solitary means being kept in a room alone; defendants gave him no indication they wanted a lawyer. Police took Gallegos to the police station to take the final statement (R. 211, 212).

Defense made motion that all of the matters in the statement referring to the robbery be stricken for the reason that Gallegos had been sentenced to the Industrial School on that charge (R. 193). Motion denied.

People's Exhibit E, the shoe shine brush, was introduced over objection that shoe brush was taken from the home of Robert Gallegos and was not the shoe brush that was used in the alleged attack by Gallegos on Smith, but was a shoe brush that was given to Detective Chism by the mother of Robert Gallegos (R. 219).

Chism stated they held Robert Gallegos in solitary (security) by rules of Juvenile Hall and Chism did not have anything to do with that (R. 203). Security is where

a boy cannot talk to anybody, cannot see anybody. Chism did not tell Robert Gallegos that he could have a lawyer. Chism took a combined statement from all the boys (R. 204, 205).

Richard Gallegos was about eight years old (R. 206).

Maria Lucy Gallegos: She has 13 children. Lives in a six-room house and children all live at home. Mother of Bobby (Robert) Gallegos; his real name was Enselmo, but they call him Elmer. Robert is the oldest of the boys and there are two older girls. She went to see her son on the second of January and when she got there they told her she could not see Robert because he was under investigation. She could not see him until the following Thursday and they let her see Robert on the following Thursday. "I was told Robert was in Juvenile Hall about 11:30 at night on January 1st and I was not permitted to see him on the 2nd of January, 1959, when I went to see him" (R. 222-225).

Chester D. Poremba, court psychologist testified (R. 263): Robert Gallegos has an IQ of 70 on a verbal scale. He speaks the language of a child you might expect at eight or nine. He has a general IQ of 83. This put him in the low range of intelligence. "I would say he is probably functioning at the level one might expect of a normal child of 11, maybe 10" (R. 265, 266).

"I feel that he might make statements to attract attention. I feel that his being confined might have an effect on his making statements and would have the effect of his complying with whatever was requested of him (R. 266). It is possible that he did make a statement to gain attention or to please someone because he had been kept confined" (R. 271).

Melvin F. Hull, superintendent of Juvenile Hall: does not use the term "security" but "we isolate them from the

group." He cooperates with the police department in doing this. Robert Gallegos had never been any kind of problem while he was with Juvenile Hall (R. 271, 272, 273). The record also shows that the matter of a Spanish-speaking boy who had an IQ of 70 was called to the attention of the Court in the Motion and Petition for a rehearing (R. 327).

2. The defense objected to the psychiatrists testifying for any purpose for the reason that the psychiatrists had been appointed upon request of the defense to assist them to prepare for trial. Objection was: If Robert Gallegos had been financially able to pay for a psychiatrist the relationship of doctor and patient would exist. The doctor, therefore, could not be called to testify as to any matter concerning Robert Gallegos (R. 168, 169). Objection was overruled by the Court (R. 169). Dr. Charles A. Rymer and Dr. R. Robert Cohen testified concerning the defendants and indicated that they had examined both Robert Gallegos and Eddie Martinez (R. 170-174).

Petition for appointment of psychiatrists indicates that psychiatrists were appointed prior to entering a plea in order to assist counsel on mental condition of Robert Gallegos (R. 10). The Order (R. 11).

One of the psychiatrists, Dr. L. V. Tepley, reported to the trial court that Robert was not capable of choosing the right and refraining from doing the wrong (R. 14).

The defendant objected to the endorsement of the doctor witnesses for the reason that they were appointed upon the request of the defendant because he was unable to hire psychiatrists or doctors (R. 69).

> "The Court: I will rule the State may call the three psychiatrists on this question; do they know the difference between good and evil" (R. 176).

3. The Court granted the defendants' motion to suppress the statements as to one defendant only and overruled the motion to suppress as to Robert Gallegos (R. 49).

This motion among other points was based on:

C.R.S. '53 22-8-1 (3): "A disposition of any child or any evidence given in any such case, shall not in any criminal or other cause or proceeding whatever be lawful or proper evidence against such child . . ." (R. 47 and 320). Overruled as to Robert Gallegos (R. 49).

4. Defendant further filed motion to waive jury and the Court denied this motion (R. 37).

VI. Summary of Argument

The record amply shows a child, 14, held incommunicado five days, of subnormal intelligence, questioned at least three times, denied visit of his mother, not advised of right to counsel; at the end of that time gives a statement to the police after being put in fear "of being held in security longer" violates the sense of fair play inherent in the Constitution of the United States.

Coupled with that the use by the State of the testimony of psychiatrists appointed to assist the defendant before a plea was *even entered*, does not give Bobby Gallegos the equal protection of the laws contemplated.

Add that the trial court as well as the Supreme Court held that the same witnesses giving the same evidence may be called to convict a juvenile in a separate trial, though it seems clear that if this were a case involving a grown up in Colorado only one penalty would be assessed, and the law in Colorado as well as in most jurisdictions seems to prohibit the use of the same statement and evidence in

another Court as was used in the Juvenile Court, therefore the juvenile is denied the equal protection of the law if his rights are not thus guaranteed.

Finally the waiver of the jury was not permitted although in this case no degrees of murder nor the death penalty could be involved; and yet even this right was denied.

In summary it appears that ample reasons exist for reversal.

VII. ARGUMENT

A. Basic Constitutional Rights Were Violated in Colorado When a Child, 14, of Subnormal Intelligence Was Held Incommunicado to Secure Statement

In denying petitioner's appeal, the Colorado Supreme Court appears to have decided issues involving petitioner's rights under the Federal Constitution contrary to the decisions of the United States Supreme Court.

As to the question one, the matter of holding this 14-year-old boy in solitary confinement for a period of five days and until the written statement was secured, particularly in view of the fact that this 14-year-old boy was of the mental age of eight and did not have the benefit of counsel and was a Spanish-speaking child who was not warned that any statements made could be used against him; who was also afraid that they would keep him in "security" if he did not make the statement, was wrong, and the statement so secured was improperly admitted.

An early case on this is *Ziang Sung Wan, Petitioner*, v. *United States of America*, 266 Supreme Court 1, 69 L. Ed. 131. (Confession secured by continuous examination is inadmissible.) Following this *Perrygo* v. *United States*, 2

F. 2d 181, reversal of judgment on erroneous admission of confession of 17-year-old of low mentality.

To hold this 14-year-old boy in solitary confinement for five days, and not permitting his parents to see him, together with the interrogation that was repeated at least three times, seems to make mental coercion especially since the boy, Robert, has such a low mentality.

Cases have held that mental coercion will render a statement or confession inadmissible.

Brown v. *Mississippi*, 287 U. S. 278, 80 L. Ed. 682, 56 S. Ct. 461;
Ashcraft v. *Tennessee*, 327 U. S. 274, 90 L. Ed. 667, 66 S. Ct. 544;
Watts v. *Indiana*, 338 U. S. 49, 93 L. Ed. 1801, 69 S. Ct. 1347.

Confessions must be voluntary.

Stein v. *New York*, 346 U. S. 156, 98 L. Ed. 362, 74 S. Ct. 13.

Illegal detention may result in declaring confession involuntary.

Watson v. *United States*, 234 F. 2d 42 (App. D.C. 1956);
McNabb v. *United States*, 318 U. S. 332, 87 L. Ed. 819, 83 S. Ct. 608.

If there is a reasonable doubt that a confession is voluntary, doubt should be resolved in favor of accused.

State v. *Graffan*, 202 La. 869, 13 So. 2d 249.

Confessions under promises of any hope, benefit or favor made or held out by officers, or persons in authority are not voluntary.

Martin v. *United States*, 166 F. 2d 76 (C.C.A. 4th 1948);

Anderson v. *United States*, 124 F. 2d 58 (C.C.A. 6th 1941);

See also *Harling* v. *U. S.*, July 6, 1961, 295 F. 2d 161, C.A.D.C. on other points.

In *Culombe* v. *Connecticut* the Court once more reviewed a state court's determination that a criminal defendant's confession was admissible in evidence and found error. Culombe, an adult of subnormal intelligence, fell under the suspicion of state police officers in connection with a series of holdups and killings. He was taken into custody and questioned intermittently for a five-day period, at the end of which he confessed to the crimes in question. At no time during his detention was he subjected to physical brutality or the threat thereof, the periods of interrogation were not protracted, and he was not deprived of food or sleep. But his request for counsel was denied, he was evidently *not warned of his constitutional right to remain silent*, and he *was held incommunicado*, except when his wife and one of his children were brought before him for the express purpose of inducing him to confess. *His arrest on suspicion of serious felonies was not promptly followed, as state law required, by arraignment* before a magistrate; and when three days later he was finally arraigned he was charged only with breach of the peace, in a proceeding so perfunctory that he had no opportunity to speak to the judge. At his trial his police interrogators admitted that their conduct had been aimed at procuring a confession, and that the breach-of-the-peace charge had been a pretext to insure his continued custody to that end. A state psychiatrist testified that Culombe was "*suggestible*." Culombe's conviction for murder was affirmed by the Connecticut Supreme Court of Errors. On certiorari, the Supreme Court reversed.

See Note, 9 Stan. L. Rev. 515, 536-37 (1957);
367 U.S. 568 (1961), reversing *State* v. *Culombe*,
147 Conn. 194, 158 A. 2d 239 (1960).

Absent from the record was evidence of physical or mental brutality, protracted questioning, deceitful tactics aimed to elicit a confession, or a defendant suffering from severe mental illness. That the defendant has been refused counsel, detained for a substantial period incommunicado and was of subnormal intelligence in combination is indicative of some police misconduct perhaps aggravated.

See also: *E. G. Reck* v. *Pate*, 367 U.S. 433 (1961);
Blackburn v. *Alabama*, 361 U.S. 199 (1960);
See *Lisenba* v. *California*, 314 U.S. 219, 240 (1941);
C. F. Fikes v. *Alabama*, 352 U.S. 191 (1957);
Crooker v. *California*, 357 U.S. 433 (1958);
Cicenia v. *Lagay*, 357 U.S. 504 (1958);
Stein v. *New York*, 346 U.S. 156, 184-87 (1952);
See *Malinski* v. *New York*, 324 U.S. 401 (1945);
Ashcraft v. *Tennessee*, 322 U.S. 143 (1944);
Paulsen, the fourteenth amendment and the third
degree, 6 Stan. L. Rev. 411, 416-21 (1954).

So patent was the police officers' flouting of the elements of such procedure that it was necessary to exclude the fruits of their misconduct, whether or not it was entirely clear that Culombe's will to resist had been broken.

In *McNabb* v. *United States*, 318 U.S. 332 (1943), the Court held confessions inadmissible *per se* in federal courts if obtained during illegal detention. In large part the *McNabb* holding was predicated on the Court's supervisory power over federal law enforcement officers, who had consistently ignored federal prompt-arraignment statute. But *McNabb* also pointed out that the use of third-degree

methods could normally be inferred from the single fact of illegal detention. Proof of such methods by a suspect detained in isolation by his police captors in inherently very difficult.

B. Permitting Doctors Appointed Before Plea to Testify As to Defendant-Patient Is a Violation of Equal Rights

As to question two, the trial court appointed psychiatrists to assist counsel in determining the mental condition of the two boys before entering pleas. This was done prior to a plea in the case upon a special petition and not upon a plea of insanity, and it was the contention of the defense that if the boy on trial had had adequate funds that he could have hired his own doctors and any of their findings would have been privileged, and doctors could not have been forced to testify against the interests of their patient. However, in the case at bar, the trial court ruled that a doctor appointed in these circumstances could testify against the defendant patient. The Colorado Supreme Court did not consider this a basic right of the petitioner and did not consider that any basic right had been violated. The Colorado court by its action here has stated that a person who is without means must provide whatever findings are arrived at by the doctor even if this results in providing evidence against himself; whereas, a person of means would not have to provide any such evidence since there would be a doctor-patient relationship existing. Thus, it may appear that in Colorado, insofar as this petitioner is concerned he could not expect equal protection of the law because he was a poor boy. Had he had the means to pay his own doctors, the doctors' testimony could not have been used for any purpose whatsoever. Colorado Revised Statutes 1953 Chap. 153-1-7 (4) and (8) provide physician may not testify without consent.

The case of *Griffin* v. *People of the State of Illinois*, 351 U.S. 12, 76 S. Ct. 585, 100 L. Ed. 891, 55 A.L.R. 2d 1055, has within it interesting points regarding equal justice for the poor.

See also Colorado Revised Statutes, 1953, Chap. 40, Article 1, Subsection 3: "A person . . . sound mind . . . 14 . . . or before that age if such person knows distinction between good and evil."

C. Permitting Evidence Used in Juvenile Court to Again Appear in District Court Is Manifestly Unfair to Juvenile Defendant Under Constitution

Question three as to statute restricting evidence used in Juvenile courts is important.

The law in Colorado is: Section 22-8-1, Colorado Revised Statutes 1953, and provides among other things, "a disposition of any child under this article or any evidence given in any such case shall not in any criminal or other cause or proceeding whatever, be lawful or proper evidence against such child for any purpose . . ." The District Court could not have considered the same evidence in the murder trial that was presented in the Juvenile Court. No Colorado cases have specifically considered this point. But the statute seems so clear that we are at a loss to see how the District Attorney or the Trial Court could have failed to read it to foreclose the District Attorney in using the same evidence in the District Court that had already been used in the Juvenile Court.

However, some Colorado cases throw a little light on the matter. The case of *Lindsey* v. *People*, 66 Colorado 343 at 352-3 says: "This section . . . prohibits the giving of the evidence taken . . ."

People v. *Lewis*, Ct. of Appeals of New York 1932, 260 N.Y. 171, 183 N.E. 353 (289 U.S. 709, 53 Sup. Ct. 786, 77

L. Ed. 1464). In Children's Court, boy 15 years old accused of theft of money. Questioned by the Court. Full admission and no attempt at denial. Boy adjudged delinquent and committed to State Industrial and Agricultural School.

Upon appeal, reversed on ground that the specific act upon which the delinquency charge is based would be a felony if committed by an adult and must be proved in substantially the same manner. The judgment is supported by no evidence received in the boy's presence and rests solely upon his own confession made without warning against self-incrimination. (Fifth Amendment.)

"*Neither the fact that a child has been* before the Children's Court for *hearing, nor any confession, admission or statement* made by him to one Court *or to any officer thereof where* he is under *age of 16 years*, shall ever be admissible *as evidence against him* or his interests in *any other court*."

Judgment of Appellate Division reversed and of Children's Court affirmed.

Harling v. *United States*, 295 F. 2d 161, C.A.D.C.: In this case a 17-year-old boy made damaging statements. He was taken into custody at 10:30 P.M. and made damaging statements at 10:30 A.M. the next morning. He was held for a total of five days before trial.

Court held: It would offend these principles to allow admissions made by a child in non-criminal and non-punitive setting to be used later for purpose of securing his criminal conviction and punishment.

If used later they destroy Juvenile Court's *parens patria* relation to the child and violate the non-criminal philosophy which underly Juvenile Courts.

Court notes: "Standards for Specialized Courts Dealing with Children," Children's Bureau, United States Department of Health, Education & Welfare, 1954, pp. 38 and 39.

"Where child questioned alone by police officers without opportunity to secure presence of his parents, or guardian or counsel, his statements during such interview should be presumed to have been induced either by child's immaturity or by idea they would be used only in the specialized court, and should therefore, unless presumption is overcome, be excluded from admission before criminal court."

D. Waiver of Jury Is Permitted in Colorado and Is As Important a Right As the Reverse, and Denial Herein Is Violation of Basic Right

Question four seems clear that any person should have the right to waive a jury trial. The right to waive a jury is as important as the right to claim a jury.

The cases in Colorado all indicate that a jury trial may be waived by a defendant. The case of *People* v. *Graham*, 134 Colo. 290, 302 Pac. 2d 737, states only that a jury cannot be waived where the death penalty is involved, since the jury must decide upon this; but in this case the death penalty could not have been an issue for the reason that the age of the defendant was such that the death penalty could not attach. Therefore, the Court erroneously ruled that the jury trial could not be waived.

There was no degree involved herein, and the jury could only find the defendant guilty of murder (life imprisonment) or not guilty.

Therefore under the law, a jury trial in this case could properly be waived, and the trial court improperly denied this.

The federal courts clearly allow a waiver of a jury; *Adams* v. *U. S. ex rel. McCann* (1942), 317 U.S. 269, 605. (Rehearing denied.)

VIII. Conclusion

It is our contention, therefore, that in all respects herein argued the petitioner's rights under the due process and equal protection clauses were violated.

In conclusion, a child, Robert, is held in isolation, and questioned at least three times, not warned as to right not to speak, not permitted to see mother, not advised of his right to counsel, ultimately a signed statement is secured; then before a plea a special petition is made to appoint doctors to examine Robert, and the trial court permits these doctors to testify against this indigent boy. The law in Colorado states that the disposition and evidence used in a Juvenile Court cannot be used in any criminal proceeding yet that exactly was done here; finally, the boy elected to waive a jury and even this basic right was denied. For all the foregoing errors amounting to a denial of Constitutional rights the defendant is aggrieved.

Therefore it appears that substantial Constitutional rights were violated, and it is prayed by Robert Gallegos, petitioner, that the Honorable Supreme Court of the United States reverse the judgment.

Respectfully submitted,

Charles S. Vigil
711 E. & C. Building
930 Seventeenth Street
Denver 2, Colorado
CHerry 4-0728

Counsel for Petitioner